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OFFICE OF PETITIONS

In re Application of
Paul M. Hubel, et al.
Application No. 10/099,743
Filed: March 15, 2002
Attorney Docket No. 10001028-1

ON PETITION

This is a decision on the petition filed February 26, 2004, under 37 CFR 1.137(a), which is being treated as a petition to withdraw the holding of abandonment under the provisions of 37 CFR 1.181.

The petition is **GRANTED**.

A Notice of Allowance was mailed to applicant on June 27, 2003, setting a three-month statutory period within which to submit the issue fee. Petitioner submitted the issue fee transmittal, authorizing the issue fee to be charged to a deposit account, via certificate of facsimile transmission on July 30, 2003. Petitioner has provided a copy of the issue fee transmittal, as well as a copy of an "Auto-Reply Facsimile Transmission," which shows that it was received on July 30, 2003. In view thereof, the application was improperly held abandoned.

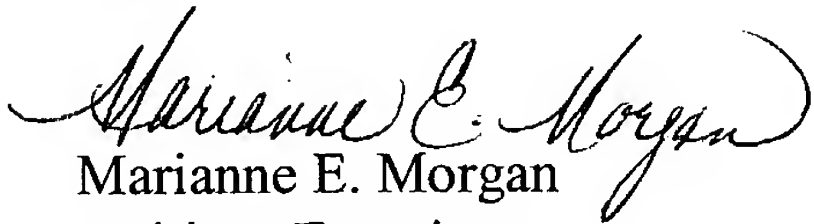
The issue fee was not charged to petitioner's deposit account when it was transmitted to the Office on July 30, 2003. The issue fee has now been charged to petitioner's deposit account as authorized in the instant petition.

37 CFR 1.137(c) requires a terminal disclaimer dedicating to the public a terminal part of the term of any patent granted on the above-identified application or any patent granted on any continuing application that contains a specific reference under 35 U.S.C. 120, 121, or 365(c) to the above-identified application. Since the application is not a utility or plant application filed before June 8, 1995, a terminal disclaimer is not required. Accordingly, the terminal disclaimer filed with the instant petition is unnecessary. Therefore, the fee of \$110 has not been charged to

petitioner's deposit account as authorized. Additionally, the petition fee has not been charged since the application was improperly abandoned.

The application file is being forwarded to the Publishing Division to be processed into a patent.

Telephone inquiries concerning this decision should be directed to the undersigned at (703) 306-3475.



Marianne E. Morgan

Petitions Examiner

Office of Petitions

Office of the Deputy Commissioner
for Examination Policy